

## REMARKS

New Claims 22-31 are added without introducing any new subject matter and Claims 1-10, 14, 15, 17-21 have been amended as to matter of form. In this manner, Claims 1-31 are pending in the present application. In the Office Action, Claims 1-17 and 19-21 stand rejected under 35 U.S.C. § 102(e) over the U. S. Patent Application Publication 2001/0023446 (“the Balogh reference”). The Applicant submits that the Balogh reference is not a proper 102(e) rejection.

Section 35 U.S.C. § 102(e) provides that published U.S. patent applications are effective as prior art as of their U.S. filing date and that U.S. patents are effective as prior art as of their U.S. filing date. (Emphasis supplied). As explained below, based on its U.S. filing date, the Balogh reference does not qualify as a proper prior art reference under 102(e).

The Balogh reference has a U.S. filing date of February 20, 2001. This reference further claims priority to a foreign filed application (20000431(FI)) that was filed on February 24, 2000. However, as noted, 102(e) specifies that published U.S. patent applications are effective as prior art as of their U.S. filing date. Thus, the effective date of the Balogh reference under 102(e) is February 20, 2001. In contrast, the present application claims priority of U.S. Provisional Patent Application 60/236,981 filed on September 29, 2000 and U.S. Provisional Patent Application 60/217,796 filed on July 12, 2000. Accordingly, the Balogh reference does not qualify as “prior art” under 102(e) in the instant case, and thus the Examiner’s reliance on it is improper. The Applicant thus respectfully requests the Examiner to allow claims 1-17 and 19-21.

Claim 18 was rejected under 35 U.S.C. § 102(e) as being anticipated by U. S. Patent No. 6, 144, 855 ("Slovin"). The Examiner's rejection of claim 18 is respectfully traversed. Claim 18, in part, calls for adjusting medium access control (MAC) and physical (PHY) level operation parameters at an access point and at a mobile unit so that the specified quality of service over the wireless link is enabled. The Examiner alleges that this claimed feature is taught by Slovin at col. 10, line 54 – col. 12, line 67. This section relied upon by the Examiner teaches that roaming algorithms are implemented in the upper MAC layer protocols and should be transparent to the higher network layers. Therefore, as can be seen, the citations provided by the Examiner are silent with regard to adjustment of any physical (PHY) level operation parameters at an access point. Moreover, the section of Slovin relied upon by the Examiner refers only to an access point, and does not make any reference to a mobile unit. In contrast, claim 18 calls for adjusting medium access control (MAC) and physical (PHY) level operation parameters at a mobile unit so that the specified quality of service over the wireless link is enabled. For these reasons alone, the Applicant respectfully submits that Claim 18 is not anticipated by the Slovin reference.

In view of these amendments and remarks, the application is now in condition for allowance and the Examiner's prompt action in accordance therewith is respectfully requested. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is respectfully requested to call the undersigned attorney at the Houston, Texas telephone number (713) 934-4064 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

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